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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91184803
Party	Plaintiff Converse Inc.
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Submission	Motion to Suspend for Settlement Discussions
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Date	08/08/2013
Attachments	Joint Motion to Suspend Discovery and Trial Periods for 90 Days (as filed).pdf(122450 bytes)

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

<hr/>	:	Opposition No. 91184803
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Opposer	:	Mark: 
	:	
v.	:	Application Serial No. 79/038,026
	:	
Unit Enterprises Pty. Ltd.,	:	
	:	
Applicant	:	
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JOINT MOTION TO SUSPEND DISCOVERY AND TRIAL PERIODS FOR 90 DAYS

In the opposition no. 91184803, Opposer, Converse Inc., and Applicant, Unit Enterprises Pty. Ltd., hereby jointly move for a 90-day suspension of the opposition proceedings. The joint motion is being filed based on the extraordinary circumstances in settling this matter between two parties where the settlement will have worldwide effect and there are a number of complex issues which must be addressed in a worldwide agreement. The parties have made and continue to make substantive progress in reaching a final settlement agreement.

Specifically, pursuant to the Order dated July 23, 2013, the Expert Disclosures are due on August 10, 2013. The parties jointly request that the opposition be suspended for 90-days and all dates in the opposition suspended accordingly. The new (proposed) dates are set out below.

Time to Answer:	Closed
Deadline for Discovery Conference:	Closed
Discovery Opens:	Closed
Initial Disclosures Due:	Closed
Expert Disclosures Due:	11/8/2013

Discovery Closes:	12/8/2013
Plaintiff's Pretrial Disclosures:	1/22/2014
Plaintiff's 30-day Trial Period Ends:	3/8/2014
Defendant's Pretrial Disclosures:	3/23/2014
Defendant's 30-day Trial Period Ends:	5/7/2014
Plaintiff's Rebuttal Disclosures:	5/22/2014
Plaintiff's 15-day Rebuttal Period Ends:	6/21/2014

The parties request the suspension based on continued engagement in settlement discussions. Below is a detailed report regarding the status of the settlement negotiations.

The parties have actively been working with their respective clients to move settlement forward and a close-to-final settlement agreement has been exchanged. The global nature of both the Applicant and the Opposer and the importance of the marks at issue for each respective company has resulted in complex negotiations. As both parties are global companies, and settlement may affect the parties worldwide, time has been necessary for the parties to review and consider settlement options. The parties are not only engaged in the U.S. opposition, but also have other pending proceedings around the world which will also be affected by the settlement.

Further, it should be appreciated that both parties have multiple levels of review. Outside counsel has been communicating with in-house counsel who has also had to work with various business units, advisors and business partners in regards to settlement. The review of settlement proposals is even more complicated in that the Applicant is based outside the U.S., as the Applicant is an Australian-based company. The parties' efforts to resolve this US proceeding also involve the parties' efforts to resolve alleged issues and the parties' rights in other countries.

Even with the complexities of this matter, the parties have managed to substantively move settlement forward and continue to be actively trying to come to final terms. For example, in the last month, there have been a number of exchanges including teleconferences and exchange of settlement proposals. Specifically, the following activities illustrate the types of exchanges and discussions which the parties are engaged.

- July 7 – Applicant’s US counsel teleconference to Opposer’s US counsel regarding Applicant’s revisions to global settlement agreement.
- July 7 - Applicant’s written settlement agreement revisions and explanations sent to Opposer’s US counsel.
- July - Opposer’s global considerations of Applicant’s settlement agreement revisions and explanations.
- August 2 - Opposer’s US counsel teleconference to Applicant’s US counsel regarding Opposer’s revisions to global settlement agreement.
- August 2 – Opposer’s written settlement agreement revisions and explanations sent to Applicant’s US counsel.
- August 6 (early) - Settlement discussions by parties' US counsel.
- August 6 (late) – Applicant agreeing with Opposer that settlement is progressing and agreeing with Opposer that it is best for parties and TTAB to suspend or extend.
- August 7 - Parties' US counsel conferring about call to interlocutory attorney to discuss forthcoming Motion to Suspend.
- Early August – Applicant’s global considerations of Opposer’s settlement agreement revisions and explanations.

Last month’s discussions illustrate the continued effort of the parties to reach a global settlement. As the Board can appreciate, the substance of the global terms and discussions cannot be revealed because they are protected under Rule 408 of the Federal Rules of Evidence. These settlement discussions and the proposed settlement terms have primarily concerned the scope of the agreement, the parties’ ongoing and future obligations under the agreement, and various business considerations in the United States and in various countries around the world.

If the parties are able to finalize the terms of this revision of the written global settlement agreement (which will probably still require detailed discussion between the parties' counsel followed by internal consideration by the respective parties), the parties will further need additional time to conduct final review and obtain the necessary signatures. This final review will necessarily include review by outside counsel, inside counsel, business managers in different countries and final execution by the signatory parties.

The discussions between in-house counsel, outside counsel and management, both here and abroad, have been very meaningful, and the parties anticipate that a final global written settlement agreement setting forth the respective parties' positions will be reached. Both parties are optimistic about the settlement of this matter and the foreign matters. Such a global settlement will likely resolve not only this matter but the other worldwide oppositions which are also pending.

The parties are not requesting an additional suspension to improperly delay the proceedings. Instead, the suspension request is being made so that the parties can continue their complex worldwide settlement discussions, which both parties have acknowledged have been progressing in a detailed and timely fashion given the complexities and global issues. If settlement is finalized, it will avoid the need for the US opposition proceeding which will save the Board time and effort, and it will avoid the need for various foreign proceedings between the parties.

Accordingly, Opposer, Converse Inc., and Applicant, Unit Enterprises Pty. Ltd., respectfully jointly submit and sincerely request that the Board allow the proceedings to be suspended for an additional ninety (90) days and to suspend the dates as listed above. This

suspension is requested so that the parties may continue to focus upon global settlement instead of global discovery and work to finalize a written agreement which will resolve the issues both in the United States and abroad.

Counsel for Opposer, Converse Inc., further provides the certificate of service and Counsel for Unit Enterprises Pty Ltd. has agreed to service of the Joint Motion by electronic mail.

Dated: August 8, 2013

Respectfully submitted,

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CERTIFICATE OF SERVICE

I, B. Anna McCoy, hereby certify that on August 8, 2013, a true and correct copy of the foregoing Joint Motion To Suspend Discovery And Trial Periods For 90 Days was served via email (by agreement of counsel) upon the following:

Duane M. Byers at:
nixonptomail@nixonvan.com
dmb@nixonvan.com

A handwritten signature in cursive script, appearing to read "B. Anna McCoy", is positioned above a horizontal line.

B. Anna McCoy